IC 22-4-10

Chapter 10. Employer Contributions

IC 22-4-10-1

Payments; time; amounts instead of contributions; election; interest and penalties; joint applications

Sec. 1. Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year except where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in an employer's employ. When contributions are determined in accordance with Schedule A as provided in IC 22-4-11-3, the board may prescribe rules to require an estimated advance payment of contributions in whole or in part, if in the judgment of the board such advance payments will avoid a debit balance in the fund during the calendar quarter to which the advance payment applies. An adjustment shall be made following the quarter in which an advance payment has been made to reflect the difference between the estimated contribution and the contribution actually payable. Advance payment of contributions shall not be required for more than one (1) calendar quarter in any calendar year.

(a)(1) Any employer which is, or becomes, subject to this article by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as provided under this article unless it elects to become liable for "payments in lieu of contributions" (as defined in IC 22-4-2-32).

(2) Except as provided in subsection (a)(4), the election to become liable for "payments in lieu of contributions" must be filed with the department on a form prescribed by the commissioner not later than thirty-one (31) days following the date upon which such entity qualifies as an employer under this article, and shall be for a period of not less than two (2) calendar years.

(3) Any employer which makes an election in accordance with subdivisions (1) through (2) will continue to be liable for "payments in lieu of contributions" until it files with the commissioner a written notice terminating its election. This notice must be filed not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective.

(4) Any employer which qualifies to elect to become liable for "payments in lieu of contributions" and has been paying contributions under this article for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing

with the department not later than thirty (30) days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(b)(1) Employers making "payments in lieu of contributions" under subsection (a) shall make reimbursement payments monthly. At the end of each calendar month the department shall bill each such employer (or group of employers) for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such month that is attributable to services in the employ of such employers or group of employers. Governmental entities of this state and its political subdivisions electing to make "payments in lieu of contributions" shall be billed by the department at the end of each calendar month for an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during the month that is attributable to service in the employ of the governmental entities.

(2) Payment of any bill rendered under subdivision (1) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the employer or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subdivision (4).

(3) Payments made by any employer under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the employer.

(4) The amount due specified in any bill from the department shall be conclusive on the employer unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the employer files an application for redetermination. If the employer so files, the employer shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the hearing, the liability administrative law judge shall immediately notify the employer in writing of the finding, and the bill, if any, so made shall be final, in the absence of judicial review proceedings, fifteen (15) days after such notice is issued.

(5) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to IC 22-4-29, apply to past due contributions.

(c) Two (2) or more employers that have elected to become liable for "payments in lieu of contributions" in accordance with subsection (a) may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Such group account shall be established as provided in regulations prescribed by the commissioner.

(Formerly: Acts 1947, c.208, s.1001; Acts 1955, c.317, s.4; Acts 1971, P.L.355, SEC.18.) As amended by Acts 1977, P.L.262, SEC.17; Acts 1981, P.L.209, SEC.6; P.L.18-1987, SEC.33; P.L.135-1990, SEC.1; P.L.21-1995, SEC.70; P.L.235-1999, SEC.9.

IC 22-4-10-2

Fractional part of cent

Sec. 2. In the payment of any contribution, a fractional part of a cent shall be disregarded unless it amounts to one-half cent (1/2 cent) or more, in which case it shall be increased to one cent (1 cent).
(Formerly: Acts 1947, c.208, s.1002.)

IC 22-4-10-3

Rates

Sec. 3. Except as provided in section 1(a) of this chapter, each employer shall pay contributions equal to the following percentage of wages:

(a) Five and four-tenths percent (5.4%), except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3 and IC 22-4-37-3.
(Formerly: Acts 1947, c.208, s.1003; Acts 1971, P.L.355, SEC.19.) As amended by P.L.225-1985, SEC.1.

IC 22-4-10-4

Experience accounts; separate accounts

Sec. 4. Except as provided in section 1(a) of this chapter, the commissioner shall maintain within the fund a separate experience account for each employer and shall credit to such account all contributions paid by such employer on its behalf except as otherwise provided in this article.

The commissioner shall also maintain a separate account for each employer electing to make payments in lieu of contributions as provided in section 1(a) of this chapter and shall charge to such account all benefits chargeable to such employer and credit to such account all reimbursements made by such employer.
(Formerly: Acts 1947, c.208, s.1004; Acts 1951, c.307, s.1; Acts 1965, c.190, s.3; Acts 1971, P.L.355, SEC.20.) As amended by P.L.18-1987, SEC.34; P.L.21-1995, SEC.71.

IC 22-4-10-5

Voluntary payments

Sec. 5. Any employer may make voluntary payments in addition to the contributions required under this article, and the same shall be credited to its experience account. Such voluntary contributions shall not be used in the computation of reduced rates unless such contributions are paid prior to the expiration of one hundred twenty (120) days after the beginning of the year for which such rates are effective. Such payments shall be included in the experience account as of the computation date only if they are made within thirty (30) days following the date upon which the department mails notice that such payments may be made with respect to a calendar year. Such

voluntary payments when accepted from an employer will not be refunded in whole or in part.
(Formerly: Acts 1947, c.208, s.1006; Acts 1951, c.295, s.8.) As amended by P.L.144-1986, SEC.100; P.L.18-1987, SEC.35.

IC 22-4-10-6
Successor employers

Sec. 6. (a) When:

(1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(a);

(2) an employer acquires the organization, trade, or business, or substantially all the assets of another employer; or

(3) an employer transfers all or a portion of the employer's trade or business (including the employer's workforce) to another employer as described in IC 22-4-11.5-7;

the successor employer shall, in accordance with the rules prescribed by the board, assume the position of the predecessor with respect to all the resources and liabilities of the predecessor's experience account.

(b) Except as provided by IC 22-4-11.5, when:

(1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(b); or

(2) an employer acquires a distinct and segregable portion of the organization, trade, or business within this state of another employer;

the successor employer shall assume the position of the predecessor employer with respect to the portion of the resources and liabilities of the predecessor's experience account as pertains to the distinct and segregable portion of the predecessor's organization, trade, or business acquired by the successor. An application for the acquiring employer to assume this portion of the resources and liabilities of the disposing employer's experience account must be filed with the commissioner on prescribed forms not later than one hundred fifty (150) days immediately following the disposition date or not later than ten (10) days after the disposing and acquiring employers are mailed or otherwise delivered final notice that the acquiring employer is a successor employer, whichever is the earlier date. This portion of the resources and liabilities of the disposing employer's experience account shall be transferred in accordance with IC 22-4-11.5.

(c) Except as provided by IC 22-4-11.5, the successor employer, if an employer prior to the acquisition, shall pay at the rate of contribution originally assigned to it for the calendar year in which the acquisition occurs, until the end of that year. If not an employer prior to the acquisition, the successor employer shall pay the rate of two and seven-tenths percent (2.7%) unless the successor employer assumes all or part of the resources and liabilities of the predecessor employer's experience account, in which event the successor

employer shall pay at the rate of contribution assigned to the predecessor employer for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of that year. However, if a successor employer, not an employer prior to the acquisition, simultaneously acquires all or part of the experience balance of two (2) or more employers, the successor employer shall pay at the highest rate applicable to the experience accounts totally or partially acquired for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of the year. If the successor employer had any employment prior to the date of acquisition upon which contributions were owed under IC 22-4-9-1, the employer's rate of contribution from the first of the year to the first day of the calendar quarter in which the acquisition occurred would be two and seven-tenths percent (2.7%).

(Formerly: Acts 1947, c.208, s.1007; Acts 1951, c.295, s.9; Acts 1955, c.317, s.5; Acts 1967, c.310, s.12; Acts 1969, c.300, s.2; Acts 1971, P.L.355, SEC.21; Acts 1975, P.L.252, SEC.1.) As amended by P.L.20-1986, SEC.5; P.L.18-1987, SEC.36; P.L.21-1995, SEC.72; P.L.98-2005, SEC.6.

IC 22-4-10-7

Successor employers; experience account; benefits; discrepancy in experience accounts

Sec. 7. (a) Except as provided by IC 22-4-11.5, when an employing unit (whether or not an employing unit prior thereto) assumes all of the resources and liabilities of the experience account of a predecessor employer, as provided in section 6 of this chapter, amounts paid by such predecessor employer shall be deemed to have been so paid by such successor employer. The experience of such predecessor with respect to unemployment risk, including but not limited to past payrolls and contributions, shall be credited to the account of such successor.

(b) The payments of benefits to an individual shall not in any case be denied or withheld because the experience account of an employer does not reflect a balance and total of contributions paid to be in excess of benefits charged to such experience account.

(Formerly: Acts 1947, c.208, s.1008; Acts 1951, c.295, s.10; Acts 1971, P.L.355, SEC.22.) As amended by P.L.98-2005, SEC.7.